

Remarks

Claims 1-4, 7, 8 and 11 are currently pending.

Claims 1-4, 7, 8 and 11 have been rejected.

35 U.S.C. § 103(a)

The Examiner rejected claims 1-4, 7, 8 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Tzikas et al. (US 6,160,101) in view of Tzikas et al. (WO 00/06652). Applicants traverse these rejections for the following reasons.

Claim 1 is directed to a dye mixture comprising dyes of formula (1) and (2a) as defined above. It is true Tzikas et al. ('101) describe compounds embraced by formula (1) and Tzikas et al. ('652) describe compounds embraced by formula (2a). However neither publication teaches or suggests a dye mixture containing dyes of formula (1) and (2a) as presently claimed.

The Examiner urges that since compositions containing the dye of formula (1) and the dye of formula (2a) are individually taught, it would be *prima facie* obvious to combine the two compositions and form a third composition containing the mixture of dyes of formulae (1) and (2a). However, Applicants respectfully submit the results of forming a dye mixture containing the dyes of formulae (1) and (2a) would have been unpredictable and therefore nonobvious because of the infinite number of individual dyes which could have been combined and tested for improved properties.

As one skilled in the textile arts is aware, knowledge of single dyes and their properties does not reveal anything with respect to their compatibility as mixture. Thus, one cannot simply predict that a mixture of dyes of formulae (1) and (2a) would yield satisfactory results when applied in a similar manner as individual dyes. Although Tzikas et al. ('101) teaches that the dyes of formula (1) can be obtained as mixtures (col. 24, ll.

36-42), this passage relates to mixtures of compounds of formula (1), i.e. different isomers, which occur during the synthesis of the dye. There is no teaching or suggestion in either publication cited above that would provide one of ordinary skill any reasonable expectation that a dye mixture containing dyes of formulae (1) and (2a) can or even could provide dyeings having high degrees of fixing and good all-around fastness properties (see Application text, Examples 1-88). Instead, one skilled in the art would have been faced with an infinite number of combinations of individual dyes to try and test for improved properties. It is well settled that the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on Applicants disclosure. See *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991). However, because neither publication teaches or suggests the presently claimed combination, Applicants claimed mixture is nonobvious. Accordingly, Applicants respectfully request the rejections be withdrawn.

Conclusion

Should any fee be due in connection with the filing of this document, the Commissioner for Patents is hereby authorized to deduct said fee from Huntsman Corporation Deposit Account No. 08-3442.

Respectfully Submitted,



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